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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/642,312	08/15/2003	Nobuyuki Yamazaki	763-40	2867
28249	7590	09/16/2005		
DILWORTH & BARRESE, LLP 333 EARLE OVINGTON BLVD. UNIONDALE, NY 11553				
			EXAMINER ROJAS, BERNARD	
			ART UNIT 2832	PAPER NUMBER

DATE MAILED: 09/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/642,312	Applicant(s) YAMAZAKI ET AL.	
	Examiner Bernard Rojas	Art Unit 2832	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-20 is/are pending in the application.
- 4a) Of the above claim(s) 2 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3-5, 7, 9-15 and 19-20 are rejected under 35 U.S.C. 102(b) as being anticipated by R. G. Dugger [US Pat. #3,254,440].

Claim 1, Dugger discloses a magnet device comprising a plurality of walls [12, 14 or 20, 19] forming a plurality of chambers enclosed therein; and at least one of said chambers has a magnet [13] freely moveable [col. 1 lines 38-40] enclosed therein to abut any internal wall of said chamber when brought close to a magnetically attractive surface [col. 2 lines 63-66, the magnet is smaller than the chamber that contains it so the magnet is free to move around within the chamber]; and at least one other chamber is empty [the center chamber of the hollow block, col. 1 line 36-38] and is located next to said magnet holding chamber [figures 2 and 3, col. 1 lines 7-8].

Claim 3, Dugger discloses the device of claim 1, wherein said chambers have a polyhedron cross-sectional shape of a square [figures 2 and 3].

Claim 4, Dugger discloses the device of claim 1, further comprising images [indicia] covering one portion of at least one of said walls [col. 2 lines 51-53].

Claim 5, Dugger discloses the device of claim 4, wherein said images are one of letters, graphics, or a combination of letters and graphics [col. 2 lines 51-53].

Claim 7, Dugger discloses the device of claim 5, wherein said images are applied to the material used to make the blocks [col. 2 lines 51-53].

Claim 9, Dugger discloses the device of claim 1, wherein said magnet has a circular disk shape [figure 1].

Claim 10, Dugger discloses a polyhedron magnet device [10] comprising:
a plurality of sidewalls extending in a longitudinal direction, and partitions and end walls placed perpendicularly to said sidewalls for forming a plurality of chambers [11, 14, figure 2], said chambers defining a plurality of magnet holding chambers [12] and at least one separation chamber [hollow center chamber] between said magnet holding chambers; and
one or more magnets [13] for placement into each of said magnet holding chambers, wherein said separation chamber maintains magnetic interaction between said magnets in said magnet holding chambers.

Claim 11, Dugger discloses the device of claim 10, further comprising banners [indicia] connected to at least one of sidewalls and end walls, said banners being connected by one of printing, adhesive substance, and magnetically attractive, wherein said magnets attract said magnetically attractive substance [col. 2 lines 51-53].

Claim 12, Dugger discloses the device of claim 11, wherein said separation chamber includes a non-magnetically attractive substance [the air present in the hollow chamber].

Claim 13, Dugger discloses the a magnet device comprising a plurality of walls [11, 14 or 19 and 20] defining an interior chamber [12]; and a magnet [13] enclosed

within said chamber, wherein interior corners of said walls defining said chamber are rounded to smoothly transition between flat surfaces of adjacent walls [figures 2 and 4].

To prevent the magnet from being wedged in areas of contact between said walls and permit free movement with said chamber.

Claim 14, Dugger discloses the device of claim 13, wherein the magnet has a circular disk shape [figure 1].

Claim 15, Dugger discloses that the magnet freely moveable [col. 1 lines 38-40] enclosed therein to abut any internal wall of said chamber when brought close to a magnetically attractive surface [col. 2 lines 63-66, the magnet is smaller than the chamber that contains it so the magnet is free to move around within the chamber].

Claims 19 and 20, Duggar discloses the use of two said magnet holding chambers each containing a magnet, with said separation chamber positioned therebetween such that both magnets are mutually attracted to each other and held back only by said intermediately-positioned separation chamber when said device is moved, rotated or shaken, and when said device is brought close to a magnetically-attractive surface, said magnets reorient approximately 90 degrees and are attracted, in tandem, to the same internal wall of said device facing the magnetically-attractive surface [figure 1, col. 1 lines 32 -45, col.3 lines 26-36].

Claim Rejections - 35 USC § 103

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6, 8 and 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over R. G. Duggar [US Pat. #3,254,440].

Claim 6, Duggar discloses the claimed invention except for using the images on the wall of the block as advertisement. It would have been obvious to one having ordinary skill in the art of product marketing at the time the invention was made to use the image(s) as advertisement in order to promote a product of company.

Claim 8, Duggar discloses the claimed invention except for the images extending in a longitudinal direction along a surface of the walls. It would have been an obvious to have the text in this orientation, since applicant has not disclosed that placing the text in

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a longitudinal direction solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with vertical or diagonal text.

Claims 16-18, Duggar discloses the claimed invention except for specific dimensions of the magnetic device. It would have been an obvious to one of ordinary skill in the art at the time the invention was made to alter the dimensions of the device, since applicant has not disclosed that the claimed dimensions solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with the dimensions disclosed by Duggar.

Response to Arguments

Applicant's arguments filed 06/20/05 have been fully considered but they are not persuasive. Applicant contends that Duggar does not show that the magnet can freely move within the chamber. Duggar discloses that the magnets in the chambers of the blocks "need rotate only a small angle in order to be in position of attraction with respect to another magnet." This does not mean that the movement of the magnet is limited by the chamber, to the contrary, Duggar discloses that the chambers "contain and support freely rotatable permanent magnets" [col. 1 lines 38-40] and that the magnet is smaller than the chamber that contains it so the magnet is free to move around within the chamber [col. 2 lines 63-66].

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bernard Rojas whose telephone number is (571) 272-1998. The examiner can normally be reached on M-F 8-4:00), every other Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Elvin G. Enad can be reached on (571) 272-1990. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Paul R.

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